

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF FRED) APPEAL NO. 07-A-2006
GENTON from the decision of the Board of) FINAL DECISION
Equalization of Ada County for tax year 2007.) AND ORDER

HOMEOWNER'S EXEMPTION PROPERTY APPEAL

THIS MATTER came on for hearing September 20, 2007, in Boise, before Hearing Officer Steve Wallace. Board Members Lyle R. Cobbs, David E. Kinghorn and Linda S. Pike participated in this decision. Appellant Fred Genton appeared. Chief Deputy Assessor Tim Tallman and Assistant Administrative Supervisor Erica Thompson appeared for Respondent Ada County. This appeal is taken from a decision of the Ada County Board of Equalization denying the protest of the valuation for taxing purposes of property described as Parcel No. R5134030313.

The issue on appeal concerns a 2007 Homeowner's Exemption.

The decision of the Ada County Board of Equalization is affirmed.

FINDINGS OF FACT

Subject's 2007 Homeowner's exemption was reduced by approximately \$30,000. Appellant requests the full exemption of \$89,325 be reinstated for the 2007 tax year.

Appellant alleged an administrative error on Respondent's part caused the loss of subject's Homeowner's exemption for 2007. In March 2006, a warranty deed involving subject was recorded, whereby Kelly Reister was added as Joint Tenant with Appellant. Appellant testified the exemption had been in place for 21 years, including 2006. Appellant noted Respondent typically sends an exemption claim form to taxpayers when a deed is recorded. Appellant alleged a violation of due process because the exemption form was not mailed.

Respondent was unable to explain why an exemption form was not sent following

Appellant's recording of the warranty deed. While it is standard procedure for an exemption form to be sent in such situations, Respondent maintained it is only done as a courtesy and not pursuant to any applicable statute or regulation. Respondent argued the burden is on taxpayers to certify by April 15 of the tax year in question that an exemption is appropriate. It was noted the maximum exemption is in place for 2008.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho Code § 63-602G. Property exempt from taxation – Homestead –

(2) The exemption allowed by this section may be granted only if:

(c) The owner has certified to the county assessor by April 15 that:

(i) He is making application for the exemption allowed by this section;

“It should further be observed that a grant of exemption from taxation is never presumed and statutes and constitutional provisions relating to exemptions should be strictly construed, and where a doubt arises it should be resolved against the exemption.” Lewiston Orchards Irrigation Dist. v. Gilmore, 53 Idaho 377, 383, 23 P.2d 720, 722 (1933).

Appellant's ownership interest in subject was changed in March 2006. As such, an additional application for the Homeowner's exemption needed to be filed in order to receive the maximum exemption for the 2007 tax year. The Board recognizes, as mentioned by both parties, Respondent's standard procedure is to send an exemption form to the owner when a property deed is recorded, however, it is not required by law. It is unfortunate Appellant was not aware

that additional action was needed to receive the maximum exemption. Idaho case law is clear that exemption statutes are to be strictly construed against the taxpayer. Further, Idaho Code places an affirmative duty on taxpayers to prove they are entitled to a Homeowner's exemption by April 15 of the applicable tax year. As no exemption was timely filed in this case, the Board has no choice but to uphold the decision of the Ada County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Ada County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED FEBRUARY 4, 2008